IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5120 OF 2007

Kishor Laxmanrao Sanas .... Petitioner

versus

Ms.Jyoti Namdeo Dhamdhere & ors..... Respondent.

Shri Nitin P. Deshpande for the petitioner

CORAM; A.P. DESHPANDE, J.
DATED; 9TH JULY, 2007

P.C.;

1. The plaintiff/respondent who has filed suit for specific performance of contract, had not initially claimed the decree for refundable earnest money. However, by moving an amendment application a prayer for refund of earnest money and damages is made only against respondent no.1. The said amendment has been allowed. The court permitted carrying out consequential amendment. The present petitioner who is defendant no.2 tried to make out altogether different case in the written statement, by travelling beyond the scope of the amended plaint. The trial court was of the view that the defendant no.2 should have restricted himself to the amended plaint, andhas directed striking off para 1 of additional written statement.

2. Perused the order. The same does not call for any interference. Hence writ petition is summarily dismissed.

3. At this stage the leartned counsel for the petitioner submits that the petitioner proposes to move an independent applicaiton seeking amendment of the written statement. If that is so, it shall be open for the petitioner to move appropriate application and the trial court shall decide the same in acordance with the law.

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